

## U.S. Department of Justice



United States Attorney  
Southern District of New York

86 Chambers Street  
New York, New York 10007

November 22, 2019

**BY ECF**

Honorable Paul A. Engelmayer  
United States District Judge  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, NY 10007

Re: *Open Society Justice Initiative v. Central Intelligence Agency, et al.*,  
No. 19 Civ. 234 (PAE) (BCM)  
*Open Society Justice Initiative v. Department of Justice, et al.*,  
No. 19 Civ. 1329 (PAE) (BCM)

Dear Judge Engelmayer:

We write pursuant to the Court's October 3, 2019 order, ECF No. 100, to submit a joint status letter. The remaining defendant agencies in these consolidated cases are ODNI, CIA, State, and DOD.

**ODNI and CIA.** The Court has adopted the parties' proposed briefing schedule on cross-motions for summary judgment for ODNI and CIA; the government's opening brief is due on December 5. *See* ECF No. 100.

**State and DOD.** Last month, DOD completed processing of all documents gathered in its searches. State is continuing processing consistent with the Court's orders.

**Text messages.** On October 16, 2019, prompted by the recent news reports of text exchanges among agency officials discussing Ukraine policy, Plaintiff inquired whether the four agencies that remain in the case searched text messages as part of their respective searches. The government does not concede that any additional search is required of any agency. Nevertheless, in response to this inquiry, this Office conferred with each agency that remains a defendant. The parties remain in dialogue with respect to ODNI and CIA on this issue. DOD's position is that it was not obligated to search for text messages, but it has nevertheless provided information to Plaintiff, and the agency has no reason to believe that any potentially responsive texts exist. State's position is that responsive records, regardless of form, would have been collected in the initial search. The parties have agreed, however, that State will email all 51 custodians identified in the search with a reminder about the agency's record-keeping policies with respect to text messages, and a request that each custodian forward to the FOIA office any responsive text messages that were not already collected. Plaintiff reserves all rights with respect to the text-message issue. No party seeks any relief at this time.

We thank the Court for its attention to this matter.

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Respectfully submitted,

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